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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,973	03/20/2001	Linsen Liu	11361.9USD1	9997

7590 11/25/2003  
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EXAMINER

METZMAIER, DANIEL S

ART UNIT PAPER NUMBER

1712

DATE MAILED: 11/25/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<p align="center"><b>Office Action Summary</b></p>	<b>Application No.</b> 09/812,973	<b>Applicant(s)</b> LIU ET AL.	
	<b>Examiner</b> Daniel S. Metzmaier	<b>Art Unit</b> 1712	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 June 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 26-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 26-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) ☐ All    b) ☐ Some \* c) ☐ None of:  
     1. ☐ Certified copies of the priority documents have been received.  
     2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
     3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
 a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 022001
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### **DETAILED ACTION**

Claims 26-40 are pending.

#### ***Claim interpretation***

1. The claims are directed to a modified triacylglycerol stock (TAGS) claimed in product-by-process format. Attention is directed to MPEP 2113 regarding the interpretation of product-by-process claims. Please note that product-by-process claims are examined based on the product and the process limitations are given weight only to the extent they impart distinction to the compositions.

#### ***Specification***

2. The disclosure is objected to because of the following informalities: applicants transmittal sheet, item number 6 sets forth cross-noting in the firther sentence of the specification. The status of the parent application in said cross-noting needs to be updated.

Appropriate correction is required.

#### ***Drawings***

3. The drawings were received on March 20, 2001 are acceptable to the examiner.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 26-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Wheeler et al, US 5,552,174. Wheeler et al (examples; particularly example 20) disclose interesterified and corandomized TAGS comprising a mixture of hard stock and soft stock wherein the hard stock has an iodine value of less than 70 and the TAGS may be refined. The determining an absorption of the reaction mixture at one or more wavelengths between 300 and 500 nm does not impart any distinction to the compositions. Bleaching of the source oils is conventional for aesthetics and inherent to the process oils contemplated in the Wheeler et al reference. Wheeler et al (column 20, lines 56-65) teaches the preferred margarine fat is essentially trans-free. Wheeler et al (column 23, lines 30-38) teaches a solid fat content of 0 to 10 %, which is less than 30 % at 100°F. 100°F equates to about 38° C. It is reasonable to expect a solids content of less than 30 % at 40° C.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

8. Claims 26-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wheeler et al, US 5,552,174, in view of Seiden, US 3,353,964, and **Bailey's Industrial Oil and Fat Products, Volume 2, Forth Edition**, Edited by Daniel Swern, pages 147-163, 292-293 and 434.

Wheeler et al discloses hard and soft TAGS materials as source materials in interesterified and corandomized products as set forth in the above anticipation rejection.

To the extent Wheeler et al differs from the claims in the incorporation of a bleached and refined TAGS, Seiden (examples 2 and 3) teaches corandomization of bleached and refined coconut oil in making margarine.

**Bailey's** (page 147 et sequa) teach inter-esterification. **Bailey's** (page 155) teaches **the visual reddish-brown color change is a means for reaction control**. **Bailey's** (page 292-293 and 434) teaches spectrophotometric methods of determining oil color in both research and plant control work. Spectrophotometric methods adopted in 1950 include the optical density at 460 nm among other measurements.

These references are combinable because they teach inter-esterification methods. It would have been obvious to the ordinary skilled artisan at the time of applicants' invention to employ bleached refined oils as shown to be conventional in the Seiden reference.

It is further noted that applicants recognize (page 16, lines 1-12) unbleached products have significant absorption in the 300 to 600 nm range and bleached products are easier to monitor. **Bailey's** (page 292) teaches the spectrophotometric methods for the art used Lovibond glasses as color standards for bleaching oils.


***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel S. Metzmaier whose telephone number is (703) 308-0451. The examiner can normally be reached on 9:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Dawson can be reached on (703) 308-2340. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
**Daniel S. Metzmaier**  
**Primary Examiner**  
**Art Unit 1712**

DSM